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August 5, 2003

FRA-2003-15988-2

Wesley M. Franklin
Executive Director
State of California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Docket Clerk
Office of Chief Council
Federal Rail Administration
U.S. Department of Transportation
Mail Stop 10, RCC-10
1120 Vermont Avenue, N.W.
Washington, D.C. 20590

Subject: San Francisco Municipal Railway – Third Street Light Rail Project
FRA Petition for Approval of Shared Use, Dated June 23, 2003

Dear Mr. Franklin and Sir/Madam:

The Port of San Francisco (Port) has several comments relative to San Francisco Municipal Railway's (MUNI) CPUC Application to construct a rail-to-rail grade crossing at Arthur Avenue (Quint Street Industrial Lead Track) and Third Street, dated July 2003, and the FRA Petition for Approval of Shared Use, dated June 23, 2003. Those comments follow:

MUNI APPLICATION TO CPUC

The Port notes that CPUC has received a copy of the FRA Petition, and the comments on this Petition are therefore relevant for CPUC consideration. More especially, the Port understands that there is a Union Pacific Railroad (UPRR)/MUNI waiver before CPUC, (page 35, of the FRA Petition) requesting waiver of the Overhead Contact System ("OCS") clearance normally required in such crossings. The Port hereby requests a copy of the waiver application.

The Port notes that the Joint Powers Board (JPB), that operates Caltrain, intends to electrify its right-of-way after 2005 (see FRA Petition, Section D, relative to MUNI response to Port review of draft document). This effort will heighten tunnel clearance on JPB tracks, thus making the operation of higher rail cars to the Port a reality. Taking advantage of this commercial opportunity is important to the Port. Thus, the waiver application is timely and relevant.

MUNI PETITION TO FRA FOR SHARED USE

1. GENERAL CODE OF OPERATING RULES (GCOR), SECTION 6.16

The Port believes that the crossing protocol contextually described on page 28 of the FRA Petition is inaccurate as it pertains to the requirement that a train or engine movement on the

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Quint Street lead requires a crew member on the front of the engine relaying a signal to the engineer to proceed before crossing Third Street. Further, the reference to GCOR Section 6.16 requiring that a crewmember go ahead and observe that an obscured route is clear, is a misapplication of the operating rule. GCOR Section 6.16 refers to rail crossings controlled by stop signs or gates and is therefore irrelevant to the operating scenario described in the FRA Petition, where MUNI describes a signalized interlocking system. In an interlocked signal system, train movements are controlled by signal indication, and movement authority is conferred by the signals, whether or not the crossing is obscured or otherwise.

With respect to GCOR Section 6.16 and its applicability to the Quint Street lead operating scenario, MUNI relies on the words, "If a train must stop,," to assert that a crew member must go ahead and signal from the crossing when it is safe to proceed, because the crossing is obscured. MUNI relies on the notion that the Approach Signal will always be in stop position as the reason that the train will stop (see also discussion in Section D, commencing on page 106, of the FRA Petition on the same subject). In Section D, MUNI attempts to answer issues raised by the Port during the comment period, by citing non-applicable railroad operating rules. We would note that if the train never arrives at the restrictive signal before the signal clears, there is no reason to stop. As noted above, GCOR Section 6.16 relates to a non-interlocked, non-signalized operation where stop signs or gates are used to stop train movements and visual observations are required before safe train movements may commence. Also, in a reverse move of the one described on page 28 of the FRA Petition (from the Port to JPB tracks) visibility is not obscured, and even if GCOR Section 6.16 were applicable (and it is not in our opinion), visual observation would not be required.

To further underscore our observation that a visually obscured, interlocked, signalized rail crossing does not require visual observation for a train to proceed, (when signal indications indicate proceed), we aver that there are hundreds of such crossings in the U.S. "Railroad General System", and trains routinely pass through such crossings at speeds in excess of 20 MPH without stopping.

Throughout the FRA Petition referring to the rail to rail crossing of the MUNI Line/Quint Street Industrial Lead Track, we think the document is rife with confusing statements. To underscore this observation, we refer to page 28, paragraph 2, where the current operating practice is described. The reader is lead to believe that GCOR Section 6.16 is applied by UPRR crews today, even though Section 6.16 refers to rail crossings and there is no rail crossing today (the same confusion is brought to the discussion of this matter in Section D of the FRA Petition).

For reasons noted above, the Port believes MUNI's Risk Assessment, Table 9, are flawed to the extent that the description of freight moves across MUNI tracks will include visual observations. The same rule's application flaw is true of the description on page 88, paragraph 2, describing operational protocols.

As to the matter of crossing streets at grade, where the street crossing is visually obscured to the locomotive engineer, and where the locomotive is at the head end of the train, we merely note that freight trains routinely cross such streets at speeds as high as 70 MPH.

The Port believes that GCOR Section 9.1.1 contains the applicable railroad operating rules for an Automatic Interlocking System (which is what is described, - see DEFINITIONS on page 35 of the Petition) and that body of rules is what should be used by MUNI to describe the Quint Street/MUNI Third Street crossing.

2. RAILROAD CROSSINGS

FRA Petition, Page 38, Item 4.29.6. Port notes the restriction on the movement of PCC and Historic cars across the MUNI/Quint Street crossing at Third Street. This matter is not within the province of MUNI to arbitrarily decide. If otherwise permissible to move such rail equipment, the Port reserves the right to do so. The Port requests that this item be stricken from the Petition.

3. SCENARIOS TO DEMONSTRATE CROSSING PROTECTION

FRA Petition, Page 46, Item E. The operating scenarios therein described are not realistic. As noted in Comment 1 above, the Petition relies on GCOR Section 6.16, which is not applicable to the operational environment at the Third Street/Quint Street crossing. The Port recommends that the operating scenarios be described in the context of GCOR Section 9.1.1.

4. ARTHUR AVENUE FREIGHT TRAIN SIGHT DISTANCES

FRA Petition, Page 87, Item IX. Sight distances are discussed. On page 88, paragraph 2, there is reference to GCOR, Section 6.16. As noted in Comment 1 above, this rule has no application in this operating environment.

5. EXHIBIT D, MUNI RESPONSES TO PORT COMMENTS

FRA Petition, Exhibit D, MUNI Responses to Port Comments, Item 5. MUNI did not positively accept Port's comments and incorporate them into the FRA Petition. MUNI relies on GCOR Section 6.16 as authority for its position. MUNI goes so far as to write in the paragraph immediately before Item 6, first sentence (Exhibit D of the FRA Petition), that, "All freight rail moves will stop at Third Street crossing to wait for a signal to proceed, just as they do now." No signal system currently exists to control train movements on the Quint Street Track, so the assertion is inaccurate. Further, and as noted in Comment 1 above, the signal could display a proceed indication before the restrictive signal requires the train to stop.

The Port again requests MUNI to include Port comments dated April 21, 2003 in the FRA Petition.

6. MUNI ASSESSMENT OF PORT BUSINESS PROPECTS

FRA Petition, Exhibit D, MUNI Responses to Port Comments, Item 3(b). MUNI should not attempt to assess the Port's business prospects by relying on any discussions between MUNI and UPRR over the past two (2) years. MUNI has not engaged the Port in any discussions concerning cargo growth, and indeed, UPRR has not done so either. The Port believes that there will be numerous commercial opportunities to expand Port rail traffic in the future. Also,

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reliance on JPB's expanded operations "squeezing" Port growth should not be a part of deliberations on the matter of growth.

The comments cited above are those that need to be addressed by MUNI in it's FRA Petition.

The Port is open to discussing these matters with CPUC and FRA, or with MUNI/CPUC/FRA/UPRR, if warranted. Please advise of your preference. At the very least, it seems that interpretation of and application of railroad operating rules as described in the GCOR are required before the Shared Use can be accurately depicted in the FRA Petition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dailey".

Peter Dailey
Director of Maritime

cc: Michael T. Burns, San Francisco Municipal Railway
Jeff Assay, Union Pacific Railroad
George Fetty, Fetty & Associates
N. Mizushima, Port
D. Beaupre, Port
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